

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)
) Case No. 1:12-cr-55
)
v.)
) COLLIER / LEE
JOHNNY MCNABB)

O R D E R

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:

(1) grant Defendant's motion to withdraw his not guilty plea to Count One of the five-count Indictment (2) accept Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 USC §§ 846, 841(a)(1) & 841(b)(1)(C); (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 USC §§ 846, 841(a)(1) & 841(b)(1)(C); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Court File No. 18). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Court File No. 18) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

(1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;

- (2) Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 USC §§ 846, 841(a)(1) & 841(b)(1)(C) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 USC §§ 846, 841(a)(1) & 841(b)(1)(C);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, November 29, 2012 at 2:00 p.m.** **[EASTERN]** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE